IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 2117 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders
	Machindra Deshmukh for the appellants. Purushottam Chavan for the respondents.

CORAM: S.B. DESHMUKH, J.

October 7, 2006.

P.C. :

1. Heard the learned counsel for the applicant as well as respondents.

2. It seems from the record that respondents had filed an application under Section 50 A(3) of the Bombay Public Trust Act, 1950 (hereinafter referred to as 'the Act of 1950) before the Learned Deputy Charity Commissioner, Pune being Application

No. 19/2006. The said application after hearing the respondents was allowed by the Learned Deputy Charity Commissioner, Pune by order passed on 15.1.2006.

3. The order passed by the learned Deputy Charity Commissioner, Pune under Section 50 A(3) of the Act of 1950 was the subject matter of Application under Section 72 of the Act of 1950, in the court of 9th Adhoc Additional District Judge, Pune in Miscellaneous Application No. 556 of 2006. That application was filed by the present appellants who were the applicants in that application. The present respondents were respondents in the said Application No. 556 of 2006. The Learned Adhoc Additional District Judge, Pune after hearing the parties dismissed the application and confirmed the order

passed by the Deputy Charity Commissioner, Pune with little modification which is mentioned in operative part of the order. This order seems to have been passed by the 9th Adhoc District Judge, Pune on August 4, 2006. This order is assailed by filing this First Appeal in this court.

4. This appeal is registered as First Appeal No. 2117 of 2006. This appeal however is to be considered on substantial question of law. It is infact in the nature of Second Appeal filed under Section 100 of the Code of Civil Procedure. The Division Bench of this court, so held in the judgment reported in 1998 Mh.L.J.(1) page 644, it is held that such an appeal though against the decision given by the Learned District Judge, in an application under Section 72 of

the B.P.T. Act is in the nature of Second Appeal within the parameters of Section 100 of the Code of Civil Procedure. With this settled position I have examined the appeal filed on behalf of the appellants and also the learned parties as noted above. In my view no substantial question of law is involved in this appeal filed by the appellants. In this view of the matter, appeal stands dismissed and as such disposed off in limini.

sd/-

(JUDGE)